

No. 05-11048

3:03CR270-4-N

JAN 12

CLERK, U.S. DISTRICT COURT

By

Deputy

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

KENNY J DAVIS

Defendant - Appellant

ENTRY OF DISMISSAL

Pursuant to appellant's motion this appeal is dismissed this
29th day of December, 2005, see FED. R. APP. P. 42(b).

CHARLES R. FULBRUGE III
Clerk of the United States Court
of Appeals for the Fifth Circuit

By: Lisa C. Berry
Lisa C. Berry, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT

DIS-4

RECEIVED
JAN 12 2006
U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FBI

COPY

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

U.S. COURT OF APPEALS

FILED

DEC 6 2005

CHARLES R. FULBRUGE III
CLERK

Case No. 05-11048

UNITED STATES OF AMERICA,
Respondent,

VS.

KENNY J. DAVIS,
Appellant.

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APPELLANT'S UNOPPOSED MOTION TO WITHDRAW APPEAL

TO THE HONORABLE COURT OF APPEALS:

Comes now the Appellant, Kenny J. Davis, by and through his court-appointed attorney, and files this Motion to Withdraw Appeal, and he would respectfully show the Court:

I.

On September 12, 2005, Davis was sentenced to 14 months confinement in case No. 3:03-CR-270-N, In the United States District Court for the Northern District of Texas–Dallas Division. Davis timely filed notice of appeal.

II.

After speaking directly with Davis, appellate counsel has learned that Davis wishes to withdraw this appeal.

III.

Attached as Exhibit "A" is Appellant's Notification of Intent to Withdraw Appeal.


IV.

Appellant makes this decision freely and voluntarily after considering all of his options and consequences. Appellant understands that if this Motion is granted, his appeal will be dismissed.

For these reasons, Appellant requests the Court allow Appellant to withdraw his appeal and that the Court dismiss this cause.

IRA R. KIRKENDOLL
Federal Public Defender
Northern District of Texas

Respectfully submitted,


JERRY V. BEARD
Assistant Federal Public Defender
1205 Texas Ave., Ste 506
Lubbock, Texas 79401
Phone (806) 472-7236
Fax (806) 472-7241
Texas Bar No. 01973515

ATTORNEY FOR APPELLANT

CERTIFICATE OF CONFERENCE

I have not consulted with Jeffrey Ansley, Assistant U.S. Attorney, regarding this Motion to Withdraw Appeal, but I cannot imagine any rational reason why the government would oppose the motion.


JERRY V. BEARD

CERTIFICATE OF SERVICE

Service of the foregoing Motion to Withdraw Appeal was made by hand-delivering a copy to Jeffrey J. Ansley, Assistant U.S. Attorney, 1100 Commerce St., Third Floor, Dallas, Texas 75242-1699, on this the 22nd day of November, 2005.


JERRY V. BEARD

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,
Respondent,

VS.

KENNY J. DAVIS,
Appellant.

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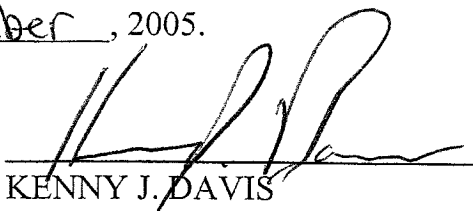
Case No. 05-11048

NOTIFICATION OF INTENT TO WITHDRAW APPEAL

I wish to withdraw my pending appeal before this Court. I pleaded guilty in Case No. 3:03-CR-270-N in U.S. District Court for the Northern District of Texas, Dallas Division, to Misprision of a Felony. I have decided it is in my best interest to withdraw the appeal in this case.

I file this Notification freely and voluntarily after considering all of my options and with full understanding of the consequences of my actions. I understand that if the Motion to Withdraw Appeal is granted, the appeal herein will be dismissed and that I will serve the sentence imposed.

SIGNED this 30 day of November, 2005.


KENNY J. DAVIS
Appellant

United States Court of Appeals

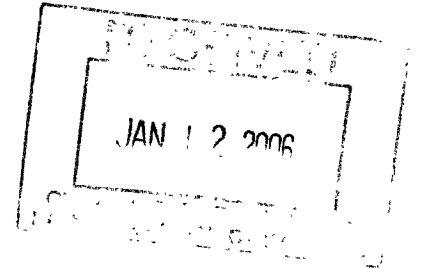
FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-310-7700
600 CAMP STREET
NEW ORLEANS, LA 70130

December 29, 2005

Ms Karen S Mitchell, Clerk
Northern District of Texas, Dallas
United States District Court
Room 14A20
1100 Commerce Street
Dallas, TX 75242



No. 05-11048 USA v. Davis
USDC No. 3:03-CR-270-4 -N

Enclosed is a certified copy of the judgment issued as the mandate.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By: *Lisa C. Berry*
Lisa C. Berry, Deputy Clerk
504-310-7700

cc: w/encl:
Mr Jerry V Beard
Ms Susan B Cowger

MDT-1